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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/669,791

09/25/2003

Joseph G. Wilson

54820-00602

6407

25243 7590 09/18/2007
KELLEY DRYE & WARREN LLP
3050 K STREET, NW
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WASHINGTON, DC 20007

EXAMINER

BOVEJA, NAMRATA

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

09/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10669791 | 9/25/2003 | WILSON, JOSEPH G. | 54820-00602 |

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WASHINGTON, DC 20007

EXAMINER

Namrata Boveja

ART UNIT**PAPER**

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20070910

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Commissioner for Patents

The reply filed on 08/24/2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Election is the designation of the particular one of two or more disclosed inventions that will be prosecuted in the application. A reply should be made to each point raised by the examiner's action, and may include a traverse or compliance. A traverse of a requirement to restrict is a statement of the reasons upon which the applicant relies for his or her conclusion that the requirement is in error. Applicant has not responded to the restriction requirement by electing one of the two groups of claims. See MPEP § 818 [R-3] and 37 CFR 1.111. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Even though the Applicant states in his Remarks that he is electing group II (claims 8-23), new claim 24, depends on claim 1, which is a non-elected claim, and claim 25 which depends on claim 8, an elected claim, are now both being added by the Applicant. Applicant's argument in regard to the traverse is actually directed to the newly added claims and not to the original claims. Furthermore, the Applicant has not withdrawn any claims. Lastly, there is no indication in the newly submitted amendment that indicates which claims are elected and which are not.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

RETTA YEHEGA
PRIMARY EXAMINER